

REMARKS

Reconsideration of the present application is requested on the basis of the following particulars.

1. Amendment of the Claims

In the amendment of the claims, claim 17 is amended and claim 49 is introduced for the first time. Entry of amended claim 17 and new claim 49 is respectfully requested in view of the Request for Continued Examination filed concurrently herewith.

Claim 17 includes the additional feature that the particles recited therein have an average particle size diameter in the range of 2 to 100 micrometers. Support for this feature is found in the originally-filed specification on page 4, lines 11-16.

New claim 49 recites a pesticidal composition comprising particles having a diameter such that when a pest comes into contact with the particles, the particles are transferred and adhere to the pest. Support for this new claim is derived from page 7, lines 4-10 in the specification.

The cited prior art references fail to disclose or suggest the composition of new claim 49 since the references provided thus far fall short in teaching the diameter of the particles in the composition. Moreover, the prior art references teach particles having diameters that are too large to perform the ability to transfer and adhere to a pest.

2. Rejection of Claims 17 and 45 as Being Anticipated By U.S. Patent 3,162,573 (Geary)

Claims 17 and 45 presently stand rejected in view of the Geary disclosure. In view of the amendment to claim 17, this rejection is respectfully traversed on the basis that the Geary disclosure fails to disclose or suggest the presently recited

pesticidal composition of claim 17. Claim 17 is thus patentable and claim 45, which depends from claim 17, is patentable based on its dependency from claim 17 and its individually recited features.

Claim 17 basically recites a pesticidal composition in a particulate form that includes particles that comprise magnetic material in admixture with a pesticide or behavior modifying chemical or particles of a magnetic material coated with a pesticide or behavior modifying chemical. In the amendment, claim 17 further recites that the particles have an average particle size diameter in the range of 2 to 100 micrometers.

According to example 15 of the Geary disclosure, which was identified in the Office Action as teaching the composition of claim 17, the pellets used in example 15 would have a particle size that is substantially larger than the particle size diameter presently recited in claim 17. This aspect of the pellets of example 15 is evident in view of the fact that the pellets must be sufficiently large so as to be retained in the rumen of the animal to which they have been fed.

In view of these observations, withdrawal of the rejection of claims 17 and 45 is respectfully requested.

Application No.: 09/736,023
Examiner: Darren W. ARK
Art Unit: 3643

3. Conclusion

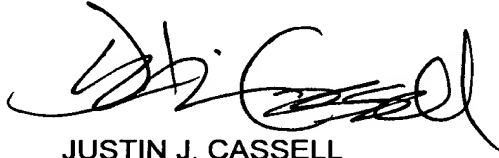
In view of the amendments to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that claims 1-49 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500

Date: September 28, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Justin J. Cassell', written over a horizontal line.

JUSTIN J. CASSELL
Attorney for Applicants
Registration No. 46,205